

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1574.00
COMPLAINT INVESTIGATOR:	Steve Starbuck
DATE OF COMPLAINT:	May 15, 2000
DATE OF REPORT:	June 9, 2000
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	November 13, 2000

COMPLAINT ISSUES:

Whether the Marion Community Schools and the Grant County Special Education Cooperative violated:

511 IAC 7-10-3 with regard to the school's alleged failure to initiate an educational evaluation at the request of the parent.

During the course of the investigation, additional issues were identified, which are:

511 IAC 7-13-5 (i) with regard to the school's alleged failure to follow appropriate procedures for providing occupational therapy to a student with disabilities.

511 IAC 7-12-1(k)(4) with regard to the school's alleged failure to specify in the individualized education program (IEP) the length and frequency of special education services.

FINDINGS OF FACT:

1. The student is six years old and will be attending first grade this fall. She has been determined eligible for special education as a student with a mild mental handicap and a communication disorder.
2. The parent signed a Permission to Evaluate form on January 27, 2000, which gave the school authority to conduct an educational evaluation for the student. The Referral for Educational Evaluation form indicates the forty instructional day timeline for completing the evaluation and convening a case conference committee (CCC) meeting would expire on March 24, 2000. The Director states that after the parent provided written consent for the evaluation, the parent decided she would not require the school to evaluate her daughter, since the parent had initiated an evaluation from an independent evaluator. The Director states it was agreed that the school would do any testing deemed necessary that was not completed by the independent evaluator. The school has nothing in writing to document that the parent declined to have the school evaluate the student. The parent states she never changed her mind about having the school evaluate her daughter. The parent states she wanted the school to do an evaluation, but the school failed to comply with her request, so she sought the independent evaluation on her own. According to the parent, the independent evaluation was paid for by Medicaid.
3. The IEP written on March 10, 2000, indicates under the heading "Related Services" that the student should receive occupational therapy. It also indicates an occupational therapy assessment should be completed upon receipt of a physician's prescription. According to the IEP, the Director was in

attendance at the CCC meeting. The issue of the school requiring a physician's prescription prior to providing students with occupational therapy services was previously identified in Complaint Investigation Report #1428.99. This report was completed on July 1, 1999, and the school was required to revise policies and procedures to ensure that a physician's prescription was not required before providing occupational therapy services to students. As part of the corrective action required, the school sent a memorandum to all appropriate staff along with a copy of the new policies and procedures advising staff of the new process for initiating occupational therapy services.

4. The IEP dated March 10, 2000, states the student shall receive speech therapy three to four times per week for twenty to twenty-five minutes. There is nothing in the IEP that specifies how the length and frequency of services, within this range, will be determined. In addition, the IEP does not denote that the student has unique needs that would indicate the necessity for listing the amount of services as a "range."

CONCLUSIONS:

1. Finding of Fact #2 indicates the school failed to complete an educational evaluation and convene a CCC meeting within forty instructional days of receiving written parental consent. Therefore, a violation of 511 IAC 7-10-3 is found.
2. Finding of Fact #3 reflects that the school requires a physician's prescription before occupational therapy services are provided. The school was previously found to be out of compliance in July 1999 by requiring a physician's prescription prior to providing occupational therapy services. Pursuant to 511 IAC 7-13-5(i) and (n), although a referral or order by a medical or mental health professional is required for the school to provide physical therapy services, a prescription is not required before occupational therapy services are provided. The CCC determines the type and intensity of occupational therapy services to be provided. Therefore, a violation of 511 IAC 7-13-5(i) is found.
3. Finding of Fact #4 indicates that both the length and frequency for speech therapy services are given in a range without a means for determination of the amount of needed services or documentation that the student requires services to be delivered in such a manner. Therefore, a violation of 511 IAC 7-12-1(k)(4) is found.

The Department of Education, Division of Special Education, requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Marion Community Schools and the Grant County Special Education Cooperative shall:

1. Convene a CCC meeting to determine:
 - a. the need for additional educational testing/evaluation;
 - b. the need for compensatory services;
 - c. to review the length and frequency of speech therapy services; and
 - d. to correct the wording as previously written in the IEP of March 10, 2000, for the initiation of occupational therapy services.

The revised IEP will need to be specific as to length and frequency of services (e.g., one time per week for thirty minutes). The length and frequency should not be listed as a "range" unless the

CCC determines the student has unique needs that require services to be delivered in such a manner. Should this determination be made, the revised IEP will need to reflect this reason and how the amount of services will be determined. Submit the revised IEP and CCC Summary Report to the Division no later than September 29, 2000.

2. In-service at least one professional staff member per school building in the school corporation who will then be responsible for training all appropriate staff at their building. The in-service training shall address the requirements as specified in:

511 IAC 7-25-3 through 511 IAC 7-25-7;
511 IAC 7-28-1(a) and (f); and
511 IAC 7-27-6(a)(5).

The in-service training for 511 IAC 7-27-6(a)(5) shall include reference to the memorandum dated February 10, 2000, to special education directors from the state director of special education regarding the recording of length and frequency of services in IEPs. Submit documentation to the Division that all in-service training has been completed no later than September 29, 2000. The documentation should include a list or an agenda of all issues discussed, any handouts that were distributed, a list by name and address of all school buildings in the school corporation, and a list of attendees by name, title, and building assignment.

3. Submit an assurance statement to the Division no later than July 14, 2000, ensuring that all school personnel shall comply with the requirements for providing occupational therapy services as specified in 511 IAC 7-28-1(a) and (f).

DATE REPORT COMPLETED: June 9, 2000